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EDUCATION WEEK

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Impairment Due To Infectious Disease Ruled a Handicap

Supreme Court Decision Seen Applying to AIDS

By Tom Mirga

WASHINGTON—School employees who have been significantly impaired by infectious diseases are entitled to protection under the federal law barring discrimination against the handicapped, the U.S. Supreme Court ruled last week.

In a decision seen as having implications for sufferers of acquired immune deficiency syndrome, the Court ruled 7 to 2 that school boards cannot cite fear of contagion as a reason for dismissing employees whose diseases have progressed to a stage where one or more "major life activities" have been affected.

The Court, however, stopped short of extending the anti-discrimination law's protections to persons who have tested positive for a disease such as AIDS but suffer no outward symptoms. It indicated that it would wait for another case to decide whether otherwise healthy carriers of contagious diseases can be considered handicapped solely on the basis of their contagiousness, and thus gain protection under Section 504 of the Rehabilitation Act of 1973.

Excerpts from opinion, page 20

The Justices' decision in *School Board of Nassau County, Fla.* v. *Arline* (Case No. 85-1277) was hailed as a major victory, albeit a limited one, for homosexual-rights advocates and others concerned about discrimination against sufferers of AIDS. According to the Federal Centers for Disease Control, there have been a total of 31,036 confirmed

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Federal Court Finds Secular Humanism a Religion

AP/WIDE WORLD PHOTOS

Three of the plaintiffs in the Alabama secular-humanism case, from left, Gloria and Douglas Smith and Judith Whorton, stand outside the courthouse in Mobile after U.S. District Judge W. Brevard Hand ruled in their favor.

Orders Texts Removed From Ala. Classrooms

By Kirsten Goldberg

A federal judge in Mobile, Ala., last week ordered 44 textbooks removed from the Alabama public schools because, he said, they unconstitutionally promote the "religious belief system" of secular humanism.

In addition, said U.S. District Judge W. Brevard Hand, they largely omit the role of Judeo-Christian religious teachings in American history.

The landmark 172-page ruling was widely viewed as a major victory for fundamentalist Christians, many of whom have long contended that secular humanism is a religion that places man's values above any divine authority, and that its tenets pervade the public schools' curricula.

The judge's March 4 decision marked the first time that a federal court has ruled that humanism is the equivalent of a religion for First Amendment purposes.

Excerpts from opinion, pages 18 and 21

"Teaching that moral choices are purely personal and can only be based on some autonomous, as yet undiscovered and unfulfilled, inner self is a sweeping fundamental belief that must not be promoted by the public schools," Judge Hand wrote.

"With these books, the State of Alabama has overstepped its mark, and must withdraw to perform its proper non-religious functions," he concluded.

The chairman of the civil-liberties group that aided the state board of education in its defense of the textbooks characterized the decision as "judicial book burning," and suggested that an appeal was imminent.

"What is created here today by this rul-

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Training Programs for Administrators Are Increasingly a Target of Criticism

By Blake Rodman

Schools of education, which in recent years have been sharply criticized for the way they train teachers, are coming under increasing fire for shortcomings in their programs to prepare school administrators.

Although the debate over teacher education has been conducted publicly and has received widespread media coverage, most of the criticisms aimed at programs to prepare administrators have been leveled by their own graduates and those within the education-school community.

And, these critics argue, if effective schools truly hinge on strong school leadership, as a number of researchers have maintained, then the deficiencies plaguing the programs that prepare administrators must be confronted.

"Bluntly," said Willis D. Hawley, dean of education at Vanderbilt University's Peabody College, "most programs for training school administrators range in quality from embarrassing to disastrous."

Critics have charged that there are too many programs to prepare administrators,

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'Medically Fragile' Students Pose Dilemma for School Officials

By Debra Viadero

Next week, in Macomb County, Mich., a group of school officials and parents will sit down to decide how to educate an 8-year-old boy who is unable to move his arms and legs or breathe without regular cleaning of his trachea.

The survivor of a near drowning, the boy is at the center of a dilemma for the Macomb County schools that tests not only the limits of federal laws protecting the handicapped, but also the district's technical and financial capacity to carry them out.

And, like his "medically fragile" counterparts in classrooms across the nat... Michigan boy's fate may rest ulti... with the answer to a question posed by one special-education consultant to the state's education department: "Where does educational responsibility begin and medical responsibility end?"

That question, said Foster J. Eid, is being asked with increasing frequency, as schools are called on to serve a growing number of pupils labeled "medically fragile," "chronically ill," or "children with complex medical needs."

Some simply need a companion to watch out for them as they walk down the hall. Others must carry respirators, or come to class on gurneys.

"When the handicapped-education laws were written 10 years ago, I don't think anybody imagined that we'd have kids with this kind of machinery showing up at the school door," said a federal special-education official.

But showing up they are, bringing with them a new set of unclearly defined responsibilities for school administrators.

According to those familiar with the Macomb County case, the participants at next ...'s special-education hearing are likely to argue over the best way to transport the boy to school, the school's liability for any medical complications resulting from its care, and responsibility for paying the attendant needed to suction his tracheostomy tube.

"If we're ever sued for liability on this," said Robert Wilson, the district's assistant superintendent for special education, "it's going to be for not doing it right, and not for doing it at all."

According to some, however, the "medically fragile" are children for whom traditional programs—whether basic educational services, special education, or home tutoring—may not be enough.

Finding a solution that addresses the legal, medical, and educational quesions involved in such children's schooling, special educators say, may await greater public awareness of the scope of the problem.

In the absence of any data collection on the national level, no one has produced a reliable estimate of the number of "medically fragile" children, experts say.

Ten years ago, they say, many of these children would not have survived the car accidents, premature births, or catastrophic illnesses that led to their condition. But

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Also in the news

5 'Alternative Routes' Appear To Accomplish Objective
Programs to bring non-education majors into teaching are attracting people as good as or better than graduates of traditional programs, a new study finds.

6 Private Schools Stress Pay In Competition for Teachers
As salaries rise in public schools, independent-school officials are adding such incentives as mentor programs and child care to their higher pay for new teachers.

8 Insurance Crisis Lessens As Schools Act on Their Own
Better risk management and self-insurance programs have made liability coverage more available, but it remains costly and limited in the commercial market.

IN SUMMARY

Manageable Crisis
As a growing number of schools form self-insurance pools and pursue other alternatives to commercial coverage, experts say the liability-insurance crisis appears to be easing. **Story on Page 8.**

Budget Pressures
Faced with what they say are unattainable deficit-reduction goals, Congressional leaders are weighing tax increases to avoid "draconian" cuts in education and other budget areas. **Story on Page 11.**

Strange Bedfellows
Although they have often disagreed in the past, Senator Claiborne Pell and Secretary William J. Bennett agree on the merits of the Administration's compensatory-education bill. **Story on Page 13.**

Indian Education
The Administration's plan to transfer 112 Indian schools to tribes or third-party contractors has been "mischaracterized grossly," an Interior Department official tells a House panel. **Story on Page 13.**

Counting Dropouts
A private education-advocacy group has disputed claims by New York City school officials that the system's dropout rate has declined significantly during the past two years. **Story on Page 17.**

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THE WEEK

FEDERAL

Senate Backs Release Of Asbestos Grants

The Senate has approved a resolution that would force the Environmental Protection Agency to release about $50 million for asbestos-removal efforts in schools.

With little debate, the Senate approved the measure on March 3. The resolution, which would require the E.P.A. to return to its original timetable for distributing the funds, was passed by the House last month.

Unless signed by President Reagan, however, the legislation has no effect. Without that approval, an E.P.A. spokesman said, the agency will not speed up release of the money.

The current controversy began in January, when the Administration asked the Congress to delete all funding for the asbestos-control effort from the federal budget. Although Mr. Reagan approved the creation of the program last year, Administration officials said then that the money was no longer needed.

The E.P.A., in turn, announced that it would not release the funds until the Congress ruled on the Administration's proposed cut, technically known as a rescission. The agency had initially planned to start awarding grants to local school districts next month.

Congressional critics denounced the E.P.A.'s policy, arguing that the delay would threaten efforts to remove potentially cancer-causing asbestos from contaminated schools over the summer recess.

"Delay would force much of the good work planned for this summer to be postponed yet another year," said Senator Daniel P. Moynihan, Democrat of New York. "This is simply unacceptable."

The issue, however, is on the verge of becoming academic. Unless the Congress acts on the proposed rescission by March 15, the request will automatically die, forcing the E.P.A. to release the money.

NATIONAL

Panel on Constitution Plans Educational Ads

As part of its "national civics lesson" on the nation's basic charter, the Commission on the Bicentennial of the U.S. Constitution has initiated a nationwide public-service advertising campaign to help teach Americans about the document.

The six television and two newspaper advertisements, developed in conjunction with the Advertising Council, will carry the message, "The Constitution: The Words We Live By," and will feature such topics as censorship, freedom of religion, and the 26th Amendment, which granted the vote to 18-year-olds.

As part of the campaign, the commission has prepared educational materials on the history and meaning of the Constitution, which are available from The Constitution, Washington, D.C. 20503.

$1.25 Million Awarded To Help Fight Illiteracy

The Gannett Foundation has awarded $1.25 million in grants to agencies in 12 states and Puerto Rico to improve efforts to make literacy services more widely available.

The awards, announced late last month, are part of a two-year, $2.25-million program called the Literacy Challenge, which is the largest non-governmental program aimed at coordinating literacy efforts in the states, according to Brian Buchanan, a spokesman for the foundation.

This year's recipients were chosen from among 75 applicants in 48 states and the District of Columbia, Mr. Buchanan said. The foundation awarded more than the $1 million originally proposed because "we received more excellent proposals than we expected," he added.

Recipients included state departments of education, universities, and nonprofit organizations in Illinois, Indiana, Maine, Massachusetts, Minnesota, Nevada, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Tennessee, Texas, and Washington State.

STATES

Federal Court Upholds Agency-Fee Procedure

A federal district judge in Connecticut has upheld the procedure used by the Connecticut Education Association to calculate agency fees for nonmembers and to review challenges to those fees.

In rejecting the arguments of a suit brought by a nonmember, U.S. District Judge José A. Cabranes ruled last month that the the union's procedure met the standard set by the U.S. Supreme Court in its 1986 ruling in *Chicago Teachers Union* v. *Hudson*.

In that case, the Court held that the union must present an "adequate explanation of the basis for the fee, a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision-maker, and an escrow for the amounts reasonably in dispute while such challenges are pending."

According to C.E.A. officials, the ruling marked the first time that a federal court has assessed the legality of an agency-fee provision since the Court's decision last year.

Mitchell E. Roth, a staff lawyer for the National Education Association, said that Judge Cabranes's ruling would be "extremely helpful for those state associations that have virtually the same procedure as" the C.E.A.'s. He said that "a number of state associations" have similar procedures.

The Connecticut association, which charged nonmembers 80 percent of union dues, sent all nonmembers an explanation of the fee's purpose, and allowed those who challenged the fee to file an objection within 30 days. The union then asked the American Arbitration Association to select an arbitrator, who would hold a hearing to determine whether the fee was justified.

The union placed the fees of those who objected in an escrow account, which would be refunded with interest if the arbitrator ruled that the fee was too high.

Court Limits Bargaining For Substitutes in Iowa

Substitute teachers in Iowa must work in four consecutive months during the school year to be covered by the state's collective-bargaining laws, the Iowa Supreme Court has ruled.

The ruling, upholding a county-court decision, was issued on Feb. 18 in a case that began in 1984.

The Iowa Association of School Boards and the Iowa State Education Association, plaintiffs in the suit, had argued that the Public Employment Relations Board should allow substitute teachers to organize if they worked a specific number of days a month in any four months of the school year.

Officials of the school-board association said last week that the court's ruling could restrict a district's ability to schedule substitutes.

"Under Iowa law, substitute teachers could bargain for a separate seniority system for assignments, potentially limiting the pool of substitutes available for work in a school district," said Ted Davidson, executive director of the school boards' group.

Such a system, he said, could conceivably be used for transferring or firing substitutes, and would restrict "management prerogatives."

Team To Donate Funds To High-School Sports

The New Orleans Saints, a professional football team, will donate between $50,000 and $100,000 from the proceeds of a preseason game against the Houston Oilers to high-school athletics in Louisiana, the team's owner, Tom Benson, has announced.

The benefit game, dubbed "the Legend," will be played in the Louisiana Superdome on Aug. 22, in honor

Continued from Preceding Page

Judy F. Dellamonica, president of the San Francisco Classroom Teachers Association, criticized Mr. Cortines for trying to balance the district's budget "on the backs of the teachers," and said the Governor's proposed budget was "woefully inadequate."

New York City Board Sued in Rape Incident

Two New York City girls who allegedly were sexually assaulted repeatedly over a two-year period by a teachers' aide at their school have filed suit against the city school board, a former principal of the school, and the school's parent-teacher association.

The suit, which seeks an unspecified amount of damages, was filed in state Supreme Court for Kings County on Feb. 23. It charges that Sandra and Ramona Holder, sisters who are now 12 and 15 years old, were sexually molested by the aide "on more than 100 occasions" between November 1984 and February 1986 before finally telling their mother. The alleged attacks took place during school hours at P.S. 3.

Harry Gadson, the alleged assailant, was arrested in 1986 and indicted on numerous counts of sodomy, rape, assault, and sexual abuse, but disappeared after being released on $2,500 bail.

According to Mark Arisohn, the girls' lawyer, the suit charges the school board, the school's former principal, and the P.T.A. with "gross negligence" for failing to provide for the girls' safety at the school and for failing to perform an adequate investigation of Mr. Gadson's background. He said the sisters are seeking actual and punitive damages "in an amount to be determined at trial."

Three Attacks in Week Concern D.C. Officials

Three separate student attacks on teachers and administrators at a junior-high school in Washington, D.C., in one week has school officials concerned and prompted a petition by teachers calling for tougher discipline.

In one week late last month, students at Hart Junior High School assaulted two teachers and an assistant principal. The District school system averages about three attacks a year in its 184 schools, according to a spokesman.

Principal Kenneth Milner, who was away from the school during the week of the attacks, said he has a "low-key" style of disciplining students, using suspension "as a last resort." Mr. Milner, who became principal in September, attributed the assaults to "an adjustment period."

About 30 teachers signed a petition to Mr. Milner asking for more stringent discipline. While the principal was away, administrators called students to two emergency assemblies on behavior, and supervisors from the school system's regional office patrolled the halls for three days.

Two students were suspended as a result of the assaults.

Police Dogs To Patrol County's High Schools

Bowing to what she said was community pressure, the top administrator of a Maryland county has reversed an earlier position and will allow the use of police dogs to search for drugs in high schools.

Howard County Executive Elizabeth Bobo had temporarily halted last December the county's plan to bring drug-sniffing dogs into high-school corridors. She said then that she was concerned that such searches might violate the constitutional rights of students.

But according to Eugene Weiss, an administrative assistant to Ms. Bobo, "strong public demand" convinced the county executive to change her mind last month. Mr. Weiss said the plan to use canine units had the backing of the county parent-teacher association and the Howard County school district.

He also said that Ms.Bobo had learned, in consultations with the local chapter of the American Civil Liberties Union and the county's law office, that a canine search-unit on public property is constitutional when the searches are limited to possessions, not people.

School Offers Students Money-Back Guarantee

The head of a private-school in Florida has pledged to either return senior-year tuition payments or provide private tutoring for students at his school who do not get accepted into college.

"Parents put their children in private school because they want them to get into college," said William Hewlett, head of the Sheridan Hills Christian School in Hollywood, Fla. "Since this is what they expect, why don't we say that we will guarantee it?"

All of Sheridan Hills' 15 seniors were accepted in college last year, Mr. Hewlett said. But he added that he was "sticking by his pledge" in 1987. The guarantee applies to any student who stays at the school for four years but fails to get into college.

'Rap Music' Is New Tool In Education on AIDS

Health officials in San Francisco are using a new tool to help make young people more aware of AIDS: "rap" music.

The city's department of public health invited local students, ages 11 to 18, to enter original compositions in a contest for the best rap song on the dangers of AIDS and the virtues of "safe sex."

The currently popular style of music features rhyming, spoken lyrics set to a rhythmic beat.

Community "rap-offs" to select five finalists were held late last month. The top winner, who was to have been named last weekend, will receive $500 and the chance to hear his or her song on radio and television as a public-service announcement.

The application kit, distributed through schools, health clinics, and youth centers, gives students a fact sheet on acquired immune deficiency syndrome and a glossary of AIDS-related terms. All applicants must take a test to show what they know about the deadly disease.

Flo Stroud, deputy director of community public-health programs, said that rap music's popularity makes it an especially good method of warning young people about AIDS. She said many young people do not see the need to take precautions against the disease.

"Teens see themselves as immortal," Ms. Stroud said.

Iowa Parents Sentenced For Truancy Violation

An Iowa minister and his wife have been sentenced to 30 days in jail for sending their daughter to an uncertified church school that they operate.

The Rev. Todd Taylor and his wife, Sharon, of Mount Pleasant, were on probation from a 1984 conviction for violating the state's compulsory-education law. In December, they were charged with breaking the terms of their probation by continuing to educate their daughter, Stephanie, 13, at the school.

Under Iowa law, children between the ages of 8 and 16 must attend a school staffed by certified teachers and using a curriculum approved by the state.

The Taylors run the Bluebird Christian Academy, located in the First Assembly of God church where Rev. Taylor is a pastor.

According to the Henry County Attorney's office, the Taylors were scheduled to begin serving their 30-day sentences on Feb. 21, but were charged for a second time with failing to provide certified instruction for their children during the fall semester last year.

The Taylors have been released on their own recognizance pending a trial on the second charge.

City Expenditures: 1984-85

Item	Amount in millions of dollars	Percent	Percent change from 1983-84
Police Protection	$12,574	11.9%	8.0%
Education	**11,433**	**10.8**	**8.5**
Highways	8,709	8.2	11.1
Sewerage	7,596	7.2	8.9
Fire protection	6,798	6.4	8.1
Interest on general debt	6,859	6.5	11.7
Public welfare	5,762	5.5	8.5
Hospitals	5,013	4.7	4.5
Parks and recreation	4,993	4.7	8.9
Housing and community development	5,100	4.8	13.6
Sanitation other than sewerage	3,850	3.6	7.9
General control	3,401	3.2	10.2
Financial administration	2,703	2.6	3.8
Health	1,562	1.5	6.6
All other functions	19,294	18.3	8.7
Total, general expenditure	**$105,847**	**100.0%**	**9.0%**

SOURCE: U.S. Census Bureau

City governments spent nearly 11 percent of their 1984-85 revenues on education, ranking schools second only to police protection in terms of expenditures, the U.S. Census Bureau reported last week. Municipal general expenditures totaled about $105 billion during the one-year period; of that amount, schools received $11.4 billion. On average, cities spent $77.93 per resident on schooling, the bureau found.

UPDATE

A high-school English teacher **who claims her principal pressured her into changing a star basketball player's failing grade** so he could continue playing on the school's undefeated team has filed suit against the Campbell County (Tenn.) school board and superintendent.

Anne McGhee initially resigned her post after changing the grade, but she later asked to be reinstated.

Instead, the district's superintendent suspended her without pay and benefits, Ms. McGhee said last week. *(See Education Week, Feb. 4, 1987.)*

The lawsuit, which was filed in Campbell County Chancery Court, contends that the district denied the teacher her due-process rights and arbitrarily and illegally suspended her, Ms. McGhee said.

The suit asks, she added, that the court restore her tenure, and her salary and benefits for the remainder of the school year.

"I am not asking for my job back," she said.

The superintendent, Kenneth Miller, and lawyers representing the district last week declined to discuss Ms. McGhee's suspension or the lawsuit.

"We feel we are in the right," Mr. Miller said.

□

The Arizona State Board of Education has voted to reassess a rule adopted last December giving school districts broad authority to set their own **academic-eligibility requirements for student participation in extracurricular activities.**

James Brunstein, associate superintendent of public instruction, said the board voted 5 to 1 on Feb. 24 in favor of a proposed new rule that would bar students who receive a failing grade in any course from participating in such activities until the grade is brought up to at least a D. He said the board would hold a public hearing in late May before taking a final vote on the proposal.

Last year, the state legislature passed a measure directing the board to set statewide standards. The board responded by requiring all districts to adopt eligibility requirements, but gave them leeway in the development and enforcement of the rules. *(See Education Week, Dec. 10, 1986.)*

According to Mr. Brunstein, lawmakers who were upset that the board did not take stronger action had threatened to push for legislation requiring participants in activities to maintain a C average or better.

PEOPLE

The University of Pennsylvania has named **Marvin Lazerson**, currently a visiting professor of education at Harvard University, as dean of its graduate school of education.

A historian by training, Mr. Lazerson has published five books, including *An Education of Value*, which he co-authored with the late Harvard professor Stephen K. Bailey and others, and *American Education in the Twentieth Century*.

In addition to his post at Harvard, Mr. Lazerson has taught at the University of British Columbia, the University of Washington, and Stanford University.

He will succeed Dale H. Hymes, professor of education, sociology, anthropology, and linguistics at Penn, and dean of the school since 1975.

□

Jerry Martin, a former legislative assistant to U.S. Representative Hank Brown of Colorado, has been appointed director of the division of education programs of the National Endowment for the Humanities.

From 1967 to 1982, Mr. Martin taught at the University of Colorado at Boulder, where he was named chairman of the philosophy department in 1979. He was the founding director of the university's center for the study of values and social policy.

Mr. Martin succeeds Pamela Menke, who has taken a position at Lesley College in Cambridge, Mass.

□

Steven McAuliffe, husband of the late teacher-astronaut Sharon Christa McAuliffe, has joined the as-yet-unofficial Presidential campaign of U.S. Senator Joseph R. Biden, Democrat of Delaware.

A spokesman for Mr. Biden, who has not declared his candidacy, said that Mr. McAuliffe volunteered to organize a speech for the Senator at the St. Paul's School in Concord, N.H., late last month, and that he is expected to become more active in the campaign. She said that the New Hampshire lawyer especially "respected and appreciated" Mr. Biden's stance on educational issues.

□

"If you think happiness can be found chasing money, this country hasn't the capacity to survive," former U.S. Senator **Paul Tsongas** told 550 students at the Williston Northampton School in Easthampton, Mass., in a rare public appearance last month.

Mr. Tsongas, who retired from the Senate in 1984 because he had cancer and wanted to spend more time in Massachusetts with his family, continued: "A banker, lawyer, whatever, doesn't contribute anything of value simply shifting papers. No one at 14 years of age should want to be a stockbroker. Whatever happened to idealism, to a career in public service?" he asked the students at the independent, college-preparatory school.

□

In response to a question from a 17-year-old student who had shown him a *Playboy* centerfold, **U.S. Attorney General Edwin Meese 3rd** told a high-school audience last week that he did not think the magazine violated obscenity laws.

"In my opinion, there has not been any court that has held *Playboy* or *Penthouse* to be within the Supreme Court definition of obscenity," Mr. Meese replied after Jared Scogna of Falls Church, Va., displayed the nude photograph from the March issue of *Playboy* and asked the Attorney General to explain the link between pornography and violent crime.

Last year, the Attorney General's commission on pornography suggested such a link. The panel also wrote a letter to the Southland Corporation soliciting a response to charges that the firm's 7-Eleven stores sold pornography. Southland stopped sales of *Playboy* and *Penthouse* at the stores shortly afterward.

Mr. Meese's comments came during a question-and-answer period in a session on constitutional topics at a convention of the Junior Statesmen of America in Philadelphia.